EXHIBIT 5
DATE 2/21/2011
HB 332

Amendments to House Bill No. 332
1st Reading Copy

Requested by Representative Bob Wagner

For the House Judiciary Committee

Prepared by David Niss
February 18, 2011 (6:18am)

1. Page 1.
Following: line 8
Insert: "WHEREAS, the Montana Constitution in Article II, section 26, provides that the right of trial by jury is secured to all and shall remain inviolate; and

WHEREAS, the prerogative of jurors to determine the facts as well as to judge the propriety of the law applicable in jury trials has been a component of the institution of trial by jury since at least the enactment of the Magna Carta in 1215 A.D.; and

WHEREAS, Montana trial jurors should not be prohibited from reading the Montana and United States Constitutions or any statute books they might request while serving as jurors; and

WHEREAS, clarification is needed to address issues relating to jury instructions in Montana courts; and

WHEREAS, trial by jury in Montana is an important protector of the rights and liberties of every Montanan and provides a vital check against unfairness and oppression; and

WHEREAS, Montana jurors should be fully informed regarding their right to choose to acquit in criminal cases and their constitutional prerogative to determine the propriety of the application of laws; and

WHEREAS, Montana jurors should be fully informed of the sentencing repercussions of their verdicts.

THEREFORE, the Legislature of the State of Montana enacts these provisions as the law of the state."

2. Page 1, line 15 and 16.
Strike: "unconstitutional" on line 15 through "reason" on line 16
Insert: "misapplied in relationship to the facts or the constitution, or both, and may be nullified in the case before them"

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3. Page 1, line 17.
Strike: "in"
Insert: "as applied to"

4. Page 1, line 19.
Strike: "that the jurors may vote their conscience"
Insert: "of their historic obligations and duty to acquit even if
there is an appearance of guilt and the burden of proof has
been met if, in good conscience, the jury believes that the
facts and the law are not consistent with the constitution
and the law the defendant is charged with violating or if
acquittal is in the interests of justice"

5. Page 1, line 20.
Strike: "technical"
Insert: "an appearance of"

- END -

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